

**IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF OKLAHOMA**

<b>JOE CHANCE MCCRAY and</b>	)	
<b>DARCI LYNN MCCRAY,</b>	)	
<b>husband and wife,</b>	)	
	)	
<b>Plaintiffs,</b>	)	
	)	
<b>v.</b>	)	<b>No. CIV-20-743-R</b>
	)	
<b>ALLSTATE INSURANCE COMPANY,</b>	)	
<b>an Illinois corporation,</b>	)	
	)	
<b>Defendant.</b>	)	

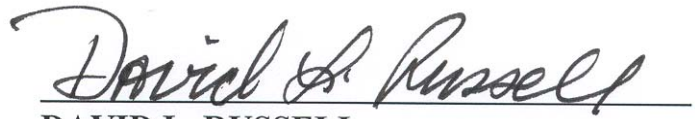
**ORDER**

On June 22, 2021, Plaintiff Joe Chance and Darci Lynn McCray and Defendant Allstate Insurance Company filed a “Stipulated of Dismissal” of Plaintiffs’ bad faith claim pursuant to Fed. R. Civ. P. 41(a)(1)(A)(ii). Doc. No. 52. Accordingly, Plaintiffs’ Count II, alleging a violation of the duty of good faith and fair dealing, is hereby **DISMISSED WITH PREJUDICE**.

Further, the dismissal of Plaintiffs’ bad faith claim dispenses of Plaintiffs’ assertion of punitive damages because punitive damages is “dependent on and derivative of [Plaintiffs’] bad faith claims.” *Shotts v. GEICO Gen. Ins. Co.*, 943 F.3d 1304, 1314 (10th Cir. 2019). Thus, only Plaintiffs’ breach of contract claim remains.

In light of the stipulated dismissal of Plaintiffs’ bad faith claims and thus, the elimination of Plaintiffs’ assertion of punitive damages, the Court need not address Allstate’s motion for partial summary judgment, Doc. No. 47. For this reason, Allstate’s motion for partial summary judgment is hereby **DENIED AS MOOT**.

**IT IS SO ORDERED** on this 13<sup>th</sup> day of July 2021.

A handwritten signature in cursive script, reading "David L. Russell", written in black ink. The signature is positioned above a horizontal line.

**DAVID L. RUSSELL**

**UNITED STATES DISTRICT JUDGE**